

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #8	CCRB Case #: 201507662	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/06/2015 3:52 AM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 3/6/2017	EO SOL 3/6/2017	
Date/Time CV Reported Thu, 09/10/2015 10:21 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/10/2015 10:21 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. CPT Anthony Longobardi	00000	923451	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Wasim Abbas	15836	957311	067 PCT
2. POM Larry Roberts	06404	924402	MED DIV
3. SGT Solangel Ruizdiaz	04001	919660	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Anthony Longobardi	Abuse: Cpt. Anthony Longobardi entered § 87(2)(b)	§ 87(2)(b)
B.CPT Anthony Longobardi	Abuse: Cpt. Anthony Longobardi unlawfully arrested § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint on September 6, 2015 via phone with the CCRB.

On September 6, 2015 at 3:52 a.m., § 87(2)(b) was at her private home, § 87(2)(b) in Brooklyn. § 87(2)(b) was having a party with her husband, § 87(2)(b) and several guests. Cpt. Anthony Longobardi and a group of police officers arrived to correct an excessive noise condition. Cpt. Longobardi entered § 87(2)(b) (Allegation A). CPT Longobardi arrested § 87(2)(b) for obstructing governmental administration for refusing to allow officers inside the house (Allegation B).

§ 87(2)(b) provided two and a half hours of surveillance footage from three different cameras around his house. The facts of the case that are captured by this video are not in dispute. A short section of this footage has been attached to this closing report (Board Review 15, original quality video in Board Review 16). The full content of the video provided to the CCRB has been summarized in a detailed investigative action (Board Review 01).

Mediation, Civil and Criminal Histories

- Mediation was offered to § 87(2)(b) and § 87(2)(b). This case was unsuitable for mediation because § 87(2)(b) indicated during his interview that he was planning to file a lawsuit.
- The NYC Office of the Comptroller responded to a request indicating that § 87(2)(b) and § 87(2)(b) have not filed a notice of claim in regards to this incident (Board Review 02).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) at the CCRB (Board Review 04).
- This is the fourth complaint filed by § 87(2)(b) at the CCRB that fell within the agency's jurisdiction (Board Review 05).
- Cpt. Longobardi has been a member of the service for 16 years and has no substantiated allegations. Cpt. Longobardi has 17 previous FADO allegations involving nine cases. § 87(2)(g). Cpt. Longobardi has three open allegations in CCRB case 201506389 (Board Review 06).

Findings and Recommendations

Allegation A – Abuse of Authority: Cpt. Anthony Longobardi entered § 87(2)(b) Brooklyn.

Allegation B – Abuse of Authority: Cpt. Anthony Longobardi unlawfully arrested § 87(2)(b)

It is undisputed that officers came to § 87(2)(b) multiple times on the incident date. On the first visit, Cpt. Longobardi spoke with residents of the location about music at their house and an adjacent house on § 87(2)(b). On the second, officers arrived and were

attempting to gain access to the adjacent house on § 87(2)(b) which was the subject of an excessive noise violation. On the third visit, the residents of § 87(2)(b) refused to allow officers to enter the location. Cpt. Longobardi called ESU and authorized the entry into the house. A laptop and music equipment were collected by the police. § 87(2)(b) was arrested for obstructing governmental administration and unreasonable noise. A photo of the house at § 87(2)(b) has been provided for reference (Board Review 17).

§ 87(2)(b) testified that she was in the backyard of her home with her husband and several guests at approximately 1:55 a.m. (Board Review 07). Music was playing but it was not playing loudly. Cpt. Longobardi arrived at the driveway to her home with 10-15 officers. The driveway leads to the backyard. There is a fence that separates the backyard from the driveway. § 87(2)(b) told Cpt. Longobardi about loud music that was coming from a house on § 87(2)(b) which is located behind his house. Cpt. Longobardi acknowledged the loud music coming from the house on New York Avenue and indicated he was trying to determine which house was causing the noise. Cpt. Longobardi said, “Keep it down and have fun” and left the driveway. Officers returned to § 87(2)(b)’s home at 3:30 a.m. Music was still playing but it was at a low volume. Sgt. Ruiz Diaz came through the driveway to the backyard and said, “Weren’t you told to turn the music off?” § 87(2)(b) told Sgt. Ruiz Diaz that he was told by Cpt. Longobardi to keep the volume low. § 87(2)(b) turned the music off and told his guests to go inside the house. The music equipment was left in the backyard. Captain Longobardi knocked on the front door and asked them to open the door. § 87(2)(b) asked why they needed to gain entry to his house even though he complied with his requests to lower the music and had shut it off completely. While § 87(2)(b) was speaking with officers at the front door, § 87(2)(b) heard people in the basement of her house. There is an alternate doorway at the front of the house that leads through the basement to the backyard. This door was unlocked to allow the party guests easy access to the backyard. § 87(2)(b) heard people in the basement. § 87(2)(b) went to look and saw that police officers were in the basement. Cpt. Longobardi told § 87(2)(b) that he was going to call ESU to open the door. ESU arrived and began prying the door open. § 87(2)(b) opened the door. About 20 officers entered the house. Some officers went to the backyard to gather the music equipment. Other officers went to the vacant second floor. One officer tried to open a bedroom door on the first floor but was stopped from doing so by § 87(2)(b). § 87(2)(b) was placed under arrest. Cpt. Longobardi said that § 87(2)(b) was being arrested for obstructing governmental administration because he told everyone not to open the door.

§ 87(2)(b) provided surveillance footage from three cameras outside of his home for the period from 1:44 a.m. to 4:16 a.m. on the incident date. After the entry has been conducted, officers are seen in the backyard of § 87(2)(b)’s house (Board Review 15/Board Review 16). Officers are gathering music equipment from the backyard. There is a fence beside the backyard that separates it from the driveway adjacent to the house. Officers lift the speaker and pass it over the fence to officers standing in the driveway. An officer passes a stand over the fence to officers in the driveway.



2015-12-17_13-34-50.mp4

Cpt. Longobardi testified that he was on patrol and heard loud noise coming from § 87(2)(b) (Board Review 08). Cpt. Longobardi did not recall if he received any calls for noise complaints in the vicinity of § 87(2)(b). Cpt. Longobardi entered the driveway and

spoke to the residents in their backyard. Cpt. Longobardi told people that they had to turn their music off. The residents complied. Cpt. Longobardi responded to another house on New York Avenue which had ignored a warning issued to them about their noise. While Cpt. Longobardi was handling the noise violation at the house on New York Avenue, he heard loud music coming from § 87(2)(b). Cpt. Longobardi sent Sgt. Ruiz Diaz and her team to § 87(2)(b) to issue a summons and seize their music equipment. Cpt. Longobardi was later informed by Sgt. Ruiz Diaz that upon her arrival, the residents of the house all went inside which prevented her from issuing a summons and seizing the music equipment. Cpt. Longobardi returned to § 87(2)(b). Cpt. Longobardi believed that the music was turned off when he arrived. Cpt. Longobardi knocked on the front door and attempted to gain the compliance of the residents but entry was refused. Cpt. Longobardi did not recall if any officer entered the premises through the basement door. Cpt. Longobardi called ESU to the house to gain entry. Entry needed to be gained to the house to issue a summons, seize the music equipment, and arrest the owner of the house for obstruction of governmental administration. The owner of the house, § 87(2)(b) committed OGA when he took everyone inside the house and refused to allow the officers inside. The house was surrounded by police officers to prevent anyone inside from escaping. ESU arrived and began to forcibly open the front door. Cpt. Longobardi did not recall if the backyard could be accessed through the fence in the backyard of the house. § 87(2)(b) opened the door as ESU was opening the door. Officers entered the house and took the music equipment from the backyard. Cpt. Longobardi gave officers a command to look for the perpetrator who had refused to provide the officers access to the house. Cpt. Longobardi did not remember where officers went in the house to look for § 87(2)(b). § 87(2)(b) was placed under arrest for obstructing governmental administration.

Sgt. Ruiz Diaz testified that she was called to respond to a noisy house on § 87(2)(b) (Board Review 10). While she was there, she heard loud music coming from § 87(2)(b). Cpt. Longobardi instructed Sgt. Ruiz Diaz to go to the house and “shut it down.” Sgt. Ruiz Diaz and her mobile response team went to the house. Music was “blasting” upon her arrival. Sgt. Ruiz Diaz went through a driveway to the backyard of the house. Sgt. Ruiz Diaz told people in the backyard to shut off their music and open the door. Sgt. Ruiz Diaz was ignored. Sgt. Ruiz Diaz went to the front of the house and was refused entry when she knocked on main front door. Sgt. Ruiz Diaz did not recall any officer gaining entry to the premises through the basement door. Sgt. Ruiz Diaz called Cpt. Longobardi and informed him of what happened. Cpt. Longobardi arrived on the scene and attempted to gain entry but was refused. The music was shut off by the time Cpt. Longobardi arrived. Cpt. Longobardi requested ESU to gain entry to the house. Officers entered the house through the front door. The backyard could not be accessed through the fence in the back of the house. The music equipment was seized from the backyard. Cpt. Longobardi made the determination to arrest § 87(2)(b) for obstructing governmental administration. Sgt. Ruiz Diaz did not know what Cpt. Longobardi observed that made him make the determination to arrest § 87(2)(b) for obstructing governmental administration.

An event report related to this incident indicates that at 3:13 a.m., the 67th precinct commanding officer requested ESU at § 87(2)(b) (Board Review 09). The event report states that ESU was requested “to gain entry through fence” and that there was a “barricaded perp at the location. The investigation found three event reports associated with this incident. None of the associated event reports show any related 911 calls indicating that a civilian made a noise complaint about § 87(2)(b) (Board Review 18).

Patrol Guide 214-23 lists the steps officers must follow when attempting to correct a noise complaint (Board Review 11). Officers must interview complainants/violators, determine if the noise is unreasonable, and attempt to correct the condition by warning the violator. A summons will be issued if the condition cannot be corrected and the music equipment will be seized. Patrol Guide 214-23 goes on to state that “the decision to forcibly enter into private or semi-private premises to correct noise complaints will ONLY be made by a precinct commander/duty captain and ONLY as a last resort, after requests to stop the noise have been ignored. Some of the factors going into the decision to forcibly enter such premises are a) Time of day b) Type of neighborhood (commercial/residential) c) Number of complaints d) The ambient noise level of the area generally.”

In Payton v. New York, 445 US 573 (1980), the Fourteenth Amendment was interpreted as prohibiting the warrantless and nonconsensual entry into a suspect’s home to conduct an arrest, absent exigent circumstances (Board Review 12).

In People v. Tillman, 184 Misc. 2d 20 (2000), it was determined that running from an officer does not constitute the crime of obstructing governmental administration (Board Review 13).

In People v. Holmes, NY Misc. LEXIS 3216 (2014), it was determined that a civilian’s refusal to allow officers into private premises does not constitute obstruction of governmental administration. A civilian has no legal obligation to allow the police to enter private property unless there is a warrant or an exception to the warrant requirement, such as exigent circumstances (Board Review 14).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b)

[REDACTED]

[REDACTED]

[REDACTED]

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§ 87(2)(g)

[Redacted text block]

Squad: 8

Investigator:	_____	_____	_____
	Signature	Print	Date
Pod Leader:	_____	_____	_____
	Title/Signature	Print	Date
Attorney:	_____	_____	_____
	Title/Signature	Print	Date